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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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BLM Director's Response to the Idaho Governor's Appeal of the BLM Idaho State Director's Governor's Consistency Review Determination

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is publishing this notice to explain why the BLM Director is denying the Governor of Idaho's recommendations regarding the Proposed Land Use Plan Amendments analyzed in the Gateway West Final Environmental Impact Statement (EIS).

FOR FURTHER INFORMATION CONTACT: Brian Amme, Acting Division Chief for Decision Support, Planning and NEPA, telephone 202-912-7289; address 1849 C Street N.W. Room 2134LM Washington, DC 20240; e-mail bamme@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours. A copy of the Gateway West Final EIS and Proposed Land Use Plan Amendments is available on the BLM Wyoming website at:

http://www.wy.blm.gov/nepa/cfodocs/gateway_west/index.html.

SUPPLEMENTARY INFORMATION: On April, 26, 2013, the BLM released the Gateway West Final EIS and Proposed Land Use Plan Amendments. On June 27, 2013, the Governor of Idaho (Governor) submitted a Governor's Consistency Review and Finding of Inconsistency for the Gateway West Final EIS and Proposed Land Use Plan Amendments (Finding) to the BLM Idaho State Director (State Director). The State Director determined the Governor's Finding was outside the scope of the Governor's Consistency Review process and did not accept the Governor's recommendations. A written response was sent to the Governor on July 26, 2013, addressing the issues raised in the Governor's Finding.

On August 23, 2013, the Governor appealed the State Director's decision not to accept his recommendations to the BLM Director. The BLM Director issued a final response to the Governor affirming the State Director's decision. Pursuant to 43 CFR 1610.3-2, the substantive portions of the Director's response to the Governor are printed as follows:

“With regard to your Greater Sage-Grouse Plan concerns, your letter did not identify inconsistencies between your Plan and any of the BLM proposed land use plan amendments for the Gateway West Transmission Project. The regulations that provide for the Governor's consistency review process at 43 CFR § 1610.3-2, require BLM to ensure that resource management plans or plan amendments ‘are consistent with officially approved or adopted’ State and local government resource related plans, and policies and programs in those plans so long as the plans ‘are also consistent with the purposes, policies and programs of Federal laws and regulations applicable to public lands.’ The regulations further provide the Governor of the State involved in a proposed plan or amendment to identify inconsistencies between State or local plans and the

proposed plan or amendment and provide recommendations to the BLM State Director.

The consistency review submitted by the Governor must identify, with specificity, how a proposed plan amendment is inconsistent with specific State or local plans. If the State Director denies such recommendations, the Governor is afforded an opportunity to appeal the BLM State Director's denial of recommendations to the BLM Director pursuant to 43 CFR § 1610.3-2(e).

"Your letter to the BLM State Director and your appeal do not meet the regulatory requirements by specifically identifying inconsistencies between the Greater Sage-Grouse Plan and the proposed land use plan amendments in the Gateway West Transmission Project FEIS. Your appeal only generally states that your Plan, which you submitted to the BLM on July 1, 2013, is inconsistent with the Gateway West National Environmental Policy Act (NEPA) process. The scope of the Governor's consistency review process is narrow. It is limited to the proposed land use plan amendment associated with the Gateway West Project and does not include the remainder of the project application or wholesale challenges to impacts analyzed in the FEIS. The absence of any identification of a specific inconsistency supports my decision to deny the recommendations in your appeal.

"Your appeal also requests clarification of BLM Idaho's statement that your Greater Sage-Grouse Plan was 'not sufficiently final' to be considered in the FEIS. While the Plan may represent a final proposal from you, the larger Greater Sage-Grouse planning effort being undertaken by the BLM in coordination with the U.S. Fish and Wildlife Service and other states, including Idaho, is not yet final. The Idaho BLM State Director was attempting to explain that the Greater Sage-Grouse planning effort and the Gateway

West Transmission Project represented two separate and distinct processes. Your plan is one of two co-preferred alternatives being fully analyzed in the Idaho and Southwestern Montana Greater Sage-Grouse Draft Resource Management Plan Amendment/Draft Environmental Impact Statement (DEIS). As we have discussed in person, the BLM is very committed to continuing to work with the State of Idaho on Greater Sage-Grouse to meet our shared goals. We have appreciated your efforts to develop a thoughtful and detailed alternative.

“With respect to Idaho’s Local Land Use Planning Act, your letter to the BLM Idaho State Director and your appeal again do not specifically identify inconsistencies between local comprehensive plans and the proposed land use plan amendments for the Gateway West Transmission Project. Instead, you generally state that local counties have jurisdiction over the siting of utility transmission corridors, and that these local governments have comprehensive planning and zoning plans. You suggest that the local governments prefer that transmission siting occur on Federal land. Finally, you suggest that the BLM’s review process for the Gateway West Transmission Project lacked meaningful public involvement. No specific inconsistencies between proposed land use plan amendments for the Gateway West Transmission Project and State or local plans were identified as required under BLM regulations, and thus, I am denying your consistency appeal as it relates to Idaho’s Local Land Use Planning Act.

“The BLM has taken considerable steps to coordinate with the local counties. In fact, the BLM coordinated extensively with local governments in the development of alternatives that crossed their jurisdictions, including meetings with the Cities of Melba and Kuna and various counties. Additionally, the BLM recognizes that after the Record of Decision is

signed, the individual counties have authority under Idaho's Local Land Use Planning Act to adjust the final location for the portions of each proposed action or alternative that are located on non-federal land.

"After careful consideration, it is my conclusion that the appeal has not identified where the proposed plan amendments are inconsistent with specific provisions of approved or adopted resource-related State or local policies and programs. Therefore, I affirm the BLM Idaho State Director's response to your Finding of Inconsistency and deny the appeal."

AUTHORITY: 43 CFR 1610.3-2(e)

Michael D. Nedd

Assistant Director, Minerals and Realty Management

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